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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: VOS=2

In re Application of:) Art Unit: 1634
)
Petrus A. J. VOS et al) Examiner: K. L. Thompson
)
Appln. No.: 09/857,408) Washington, D.C.
)
Date Filed: September 10, 2001) Confirmation No. 6391
)
For: ARRAY AND METHOD FOR) July 26, 2002
ANALYSING NUCLEIC...)

#11
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7/31/02

REPLY TO RESTRICTION REQUIREMENT

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants are in receipt Paper No. 10, a
restriction requirement Office Action mailed June 28, 2002.

Applicants have claimed priority from their
corresponding application filed in The Netherlands on December
4, 1998. The Form PCT/DO/EO/905, at the top, acknowledges
receipt by the PTO of "Priority Document". Accordingly,
applicants respectfully request the examiner to acknowledge
receipt of applicants' papers filed under Section 119.

Restriction has been required among what the
examiner considers to be four (4) patentably distinct
inventions. As applicants must make an election, even though
the requirement is traversed, applicants hereby respectfully

and provisionally elect Group II, presently claims 15-18, with traverse and without prejudice, for further prosecution on the merits at the present time.

The examiner recognizes that normal restriction practice does not apply as the present application is the U.S. national phase of a PCT application, whereby unity-of-invention rules apply. The PTO takes the position that there is lack of unity of invention because the common "special technical feature" is known in the prior art from Cantor et al USP 6,001,987.

On the other hand, applicants submit that the common special technical feature, as recited in claim 1, is the presence of at least two different nucleic acid sequences bound to the carrier, wherein each of the nucleic acid sequences comprises a sequence which corresponds to the sequence of a restriction fragment obtainable by restricting a genomic DNA and/or at least one cDNA with at least one frequent cutter restriction enzyme and at least one rare cutter restriction enzyme. Applicants do not see that such a common special technical feature is disclosed in Cantor USP '987.

Applicants also respectfully invite the examiner's attention to the IPER, particularly the first page thereof (Form PTC/IPA/409-Cover Sheet), part III, in which Box IV is

not checked, i.e. no lack of unity of invention was found during the International Preliminary Examination. As the U.S. is a signatory to the international treaty in question, namely the Patent Cooperation Treaty (PCT), the U.S. is obligated to follow the PCT rules. As no lack of unity of invention was found in the international stage, such a finding should be given full faith and credit by the PTO, and there should be no restriction requirement in the present application.


Accordingly, applicants respectfully request withdrawal of the requirement and examination of all the claims on the merits.

Applicants respectfully await the results of a first examination on the merits.

Respectfully submitted,

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